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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/660,092

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Faroog Ullah Khan

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7324

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09/23/2004

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EXAMINER

KADING, JOSHUA A

ART UNIT

PAPER NUMBER

2661

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/660,092	Applicant(s) KHAN ET AL.	
	Examiner Joshua Kading	Art Unit 2661	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

Applicant's request for reconsideration of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

5

Claim Objections

Claims 1 and 5 are objected to because of the following informalities:

Claim 1, line 6 states "the previous confirmation message". There is no antecedent basis for this limitation. Thus it should be changed to --a previous
10 confirmation message--.

Claim 5, line 1 states "method of claim one". For consistency, this should be changed to --method of claim 1--.

Appropriate correction is required.

15

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

20

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, lines 5-6 state "thus providing a technique for recovering from misinterpretation of [a] previous confirmation message transmission". First, it is not clear

how this fits into the body of a method claim, as this does not seem to be a method step. Second, there is confusion as to what the purpose of the method is. In the preamble applicant describes the method's purpose as "for receiving information in a communication system..." Lines 5-6 however, seem to describe a different purpose of the method, i.e. "recovering from misinterpretation of [a] previous confirmation message transmission." There needs to be a clarification as to what the purpose of the method is and how lines 5-6 properly fit into the method.

Claim Rejections - 35 USC § 103

10 The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

 Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Crisler et al. (U.S. Patent 5,477,550).

15

 It should be noted that since the last part of claim 1 leads to confusion, as described above, it will be given no weight since it must be assumed the preamble defines the purpose of the method.

 In regard to claim 1, Crisler et al. disclose "a method for receiving information in a communication system that user ARQ with IR, the method comprises the step of:

20 deciding which of a plurality of confirmation messages to transmit based on... a decoding operation performed on the received information (col. 4, lines 23-46 where the

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error detection is the decoding operation performed on the received information and the appropriate confirmation message, either a "message-received" or "partially-received", is sent based on the decoding results)."

5 However, Crisler does not explicitly state that the decision on which confirmation message to send is "based on an information status flag... contained in the received information". However, Crisler does disclose that the decision on which confirmation to send is based on the error detection field sent with each block (col. 3, lines 3-5). Since the error detection field acts as an indicator as to the status of the received information, it would have been obvious to one with ordinary skill in the art at the time of invention to
10 substitute the error detection field for the status flag as a matter of design choice. The motivation for transmitting the error detection field and using it to determine which confirmation to send is so that information received in error can be dealt with accordingly thus leading to accurate transmission of the information (col. 4, lines 53-60).

15 In regard to claim 2, Crisler discloses the method of claim 1. Although Crisler does not explicitly disclose the status flag of claim 1, Crisler does further disclose "the step of deciding which of the plurality of confirmation messages to transmit comprises waiting for NEW information (col. 4, lines 30-46 where all NEW (not previously received) information will need to be acknowledged by one of the confirmation messages)." It
20 would have been obvious to one with ordinary skill in the art at the time of invention to include the waiting for NEW information with the method of claim 1 for the same reasons and motivation as in claim 1.

In regard to claim 3, Crisler discloses the method of claim 1. Although Crisler does not explicitly disclose the status flag of claim 1, Crisler does further disclose “waiting for NEW information after a positive confirmation message was transmitted
5 (col. 4, lines 30-46 where after a positive confirmation message (message-received) is sent, the receiver will inherently wait for NEW information, it doesn’t simply stop receiving because it previously positively acknowledged received information).” It would have been obvious to one with ordinary skill in the art at the time of invention to include the waiting for NEW information with the method of claim 1 for the same reasons and
10 motivation as in claim 1.

In regard to claim 4, Crisler discloses the method of claim 1. Although Crisler does not explicitly disclose the status flag of claim 1, Crisler does further disclose “transmitting a positive confirmation message after receiving NEW information while
15 waiting for either NEW or CONTINUE information (col. 4, lines 30-46 where after a positive confirmation message (message-received) is sent, the receiver will inherently wait for NEW information, it doesn’t simply stop receiving because it previously positively acknowledged received information; further, receiver of Crisler is capable of waiting for CONTINUE (retransmitted) data while receiving NEW information as read in
20 col. 5, lines 10-40), decoding said received NEW information successfully and discarding any previously received information (col. 5, lines 36-40 where the

transmission acknowledgement positively confirms the message and the unbuffering is the act of discarding previously received and positively acknowledged information)."

It would have been obvious to one with ordinary skill in the art at the time of invention to include the transmitting positive confirmation after receiving NEW

5 information with the method of claim 1 for the same reasons and motivation as in claim 1.

In regard to claim 5, Crisler discloses the method of claim 1. Although Crisler does not explicitly disclose the status flag of claim 1, Crisler does further disclose

10 "transmitting a positive confirmation message if the received information is NEW information and the decoding operation was successful (col. 4, lines 30-35 where no errors is a successful decoding operation and a "message-received" communication is sent to positively confirm this)." It would have been obvious to one with ordinary skill in the art at the time of invention to include the transmitting a positive confirmation
15 message if the received information is NEW and decoding is successful with the method of claim 1 for the same reasons and motivation as in claim 1.

In regard to claim 6, Crisler discloses the method of claim 1. Although Crisler does not explicitly disclose the status flag of claim 1, Crisler does further disclose

20 "transmitting a negative confirmation message if the received information is NEW information and the decoding operation was unsuccessful (col. 4, lines 36-38 where errors detected is an unsuccessful decoding operation and a "partially-received"

communication is sent to negatively confirm this).” It would have been obvious to one with ordinary skill in the art at the time of invention to include the transmitting a negative confirmation message if the received information is NEW and decoding is unsuccessful with the method of claim 1 for the same reasons and motivation as in claim 1.

5

In regard to claim 7, Crisler discloses the method of claim 6. Although Crisler does not explicitly disclose the status flag of claim 1, Crisler does further disclose “waiting for CONTINUE information after the negative confirmation message was transmitted (col. 4, lines 53-60 where the retransmission of the blocks that contained
10 errors is in response to the negative confirmation message); combining received CONTINUE information with previously received information (col. 4, lines 56-60 where it is implied that the retransmitted data, once received, is combined with the previously received information that did not contain errors so as to make a complete message); and performing a decoding operation on the combined information (col. 4, lines 24-28
15 where although it is a retransmission, it still must pass the error detection (decoding) before being allowed to be reconstituted into the buffered data; further the order in which the decoding/combining takes place is a matter of design choice, in the end both processes need to happen and the same result is achieved no matter which is performed first).” It would have been obvious to one with ordinary skill in the art at the
20 time of invention to include the waiting for CONTINUE information, combining CONTINUE information, and decoding CONTINUE information with the method of claim 1 for the same reasons and motivation as in claim 1.

Response to Arguments

Applicant's arguments, see page 1, paragraph 4 and page 2, paragraph 1 of REMARKS, filed 22 June 2004, with respect to the rejection(s) of claim(s) 1-6 under 35 U.S.C. 103 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of a better understanding of applicant's invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua Kading whose telephone number is (571) 272-3070. The examiner can normally be reached on M-F: 8:30AM-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye can be reached on (571) 272-3078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Joshua Kading
Examiner
Art Unit 2661

September 8, 2004



**KENNETH VANDERPUYE
PRIMARY EXAMINER**